



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 3768-99
9 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 8 March 1960 at age 17. The record shows that you were arrested by civil authorities on 23 August 1960 on multiple charges. On 2 September 1960 you pled guilty to four counts of larceny, and a finding of guilt on other charges was deferred. The court sentenced you to 45 days of hard labor. You were released from confinement and returned to the Navy on 12 October 1960. A summary court-martial convened on 19 October 1960 and convicted you of 51 days of unauthorized absence, the period that you were held by civil authorities.

Based on your conviction by civil authorities you were processed for an administrative discharge. An administrative discharge board met on 23 January 1961 and found that you had committed misconduct, but recommended your retention in the Navy. The commanding officer disagreed with the recommendation for retention and recommended a discharge under conditions other than honorable. In reaching his decision, the commanding officer noted that the offenses occurred on two separate nights, and that you had been expelled from high school after assaulting a

teacher. Subsequently the discharge authority directed an undesirable discharge. You were so discharged on 15 March 1961.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education, and your contention that you were told the discharge would be automatically upgraded after six months. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct. The Board was aware that on 8 January 1962, a Federal correctional institution requested information concerning your military service and noted that you were incarcerated following a conviction for violation of the Dyer Act. This indicated to the Board that you have not been a good citizen since your discharge from the Navy. Further, there is no provision in the law or regulations which would allow for recharacterization of a discharge based solely on the passage of a period of time. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director